Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of	)	
Section 272(f)(1) Sunset of	)	
the BOC Separate Affiliate	)	WC Docket No. 02-112
and Related Requirements	)	

Comments of the Wyoming Public Service Commission

The Wyoming Public Service Commission (WPSC) hereby submits its Comments in response to the Federal Communication Commission's Notice of Proposed Rulemaking to initiate an inquiry regarding the sunset of the statutory requirements under section 272 of the 1996 Telecommunications Act imposed on Bell Operating Companies when they provide in-region, interLATA services. The WPSC is the agency of the State of Wyoming that has jurisdiction to regulate, *inter alia*, intrastate telecommunications companies serving in Wyoming. As such, WPSC is an interested party in this proceeding.

On May 24, 2002, the Federal Communications Commission released its Notice of Proposed Rulemaking initiating an inquiry regarding the sunset of the statutory requirements of section 272(f)(1) by which Bell Operating Companies are required to provide in-region, interLATA service through a separate affiliate. The Commission is seeking comment on (1) whether the structural safeguards established in section 272 should be extended by the Commission, despite the three-year sunset provision in the statute; and (2) whether any alternative safeguards should be put in place in states where the statutory requirements have sunset.

Section 272(f)(1) states that the separate subsidiary provision shall cease to apply three years after the date that the Bell operating company is authorized to provide interLATA service, unless the Commission extends the three-year period. Approval of the Bell Operating Companies' entry into in-region, interLATA market has not yet occurred in several states, and has not yet occurred in any of the Qwest area states, which includes the state of Wyoming. This approval is currently pending for Wyoming and several other Qwest states, and comes at a time of turmoil, reconsolidations, and financial instability in the telecommunications market. A great deal of uncertainty exists relative to how the market will sort itself out.

One of the other safeguards of section 272 of the 1996 Telecommunications Act is the requirement for a biennial audit of the separate affiliate that provides the in-region, interLATA services. This provision, found at section 272(d), requires that every two years a review be conducted by an independent auditor to determine whether the Bell Operating Company is abiding by established competitive, section 272 safeguards. If the separate affiliate provision were to be abolished after a three-year period, this would only allow for one biennial audit of that affiliate and its competitive procedures, prior to the time that such affiliate could be eliminated.

One audit cycle may not provide sufficient time to ensure full initial and on-going compliance with the public interest standards and other safeguards contained with the 1996 Act.

We believe that if <u>at least an additional year</u> were to be added to the current three-year minimum separate affiliate requirements, this would allow for not only two biennial audits, but would also allow for further development of a more competitive market. Competitive developments have been slower than many anticipated. We are only now beginning to see the development of a long distance market that includes the Bell Operating Companies as full participants. Allowing the BOCs to participate in the long distance market through separate subsidiaries will provide them an opportunity to fully compete with other full service providers, while assuring that they cannot use their remaining monopoly positions in the local market to take advantage of the long distance market. However, the addition of one year to the current three- year requirement should not be permanently fixed at this time. Rather, potential sunsetting of the separate affiliate requirement should be reviewed during the fourth year to determine if the time is then appropriate to eliminate the requirement.

Qwest has regionalized many of its operations, so that they are similar, and in many instances, precisely the same, in many of its fourteen states. This has been shown through the multi-state section 271 process, where regional reviews were made of its operations. Similarly, we expect that the review of the required 272 affiliate will be conducted on a regional basis, and preliminary audit outlines have been drawn up on that basis. As such, it would be difficult for the sunset provision to take affect for one state and not another when dealing with the same entity.

Based on the regional aspects of the affiliate, the need for more than one biennial audit, and the current industry uncertainty, the Wyoming Public Service Commission recommends an extension of the sunset provision. Specifically, we recommend that the Commission extend the sunset provision such that it would be in place for a minimum of a four year period (the current three years plus <u>at least</u> one additional year) after the date that the last of Qwest's fourteen states receives section 271 authority. This will allow for efficient operation by Qwest as well as continued joint cooperation of the state and federal regulators in their review of Qwest's compliance with the competitive safeguards. Finally, we believe that this time frame will allow for an appropriate development of the long distance market with the entry of the BOCs into today's unsettled telecommunications market.

Respectfully Submitted,

STEVE ELLENBECKER Chairman	STEVE FURTNEY Deputy Chairman	KRISTIN H. LEE Commissioner